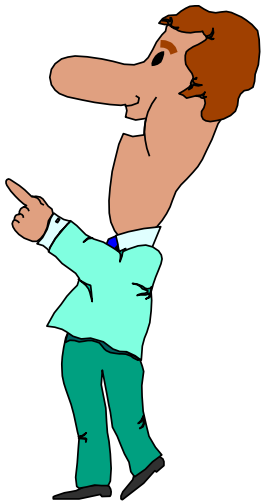
FREEDOM OF INFORMATION ACT (FOIA)

Ms Jesusa P. Cruz, SMC FOIA/PA Manager (SMC/PKX

Dated: Oct 04

SMC FOIA PROGRAM

* FOIA PRESCRIBING DIRECTIVES
* FOIA PROGRAM
* WHO CAN MAKE A FOIA REQUEST
* OPR RESPONSIBILITIES
* TIME CONSTRAINTS
* TIME EXTENSION
* PROCESSING FLOWCHARTS



FREEDOM OF INFORMATION ACT AUTHORITY

TITLE 5, UNITED STATES CODE, SECTION 552

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DOD 5400.7-R/Air Force Supplement, 24 Jun 02

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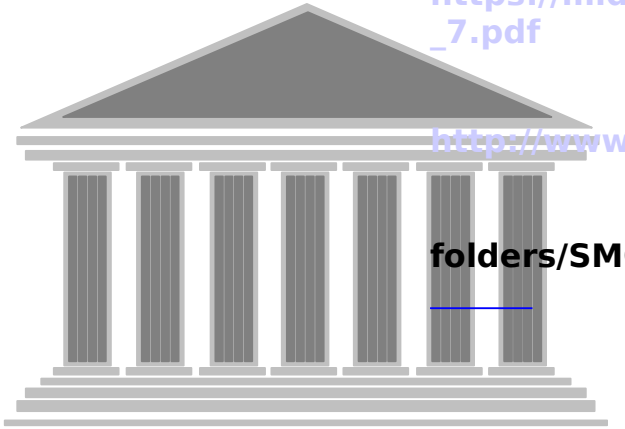
https://midway.peterson.af.mil/pubs/pubsweb/DoDSeries/5400_7s/5400_7.pdf



http://www.losangeles.af.mil/SMC/PK/PKHOME/FOIA/Homepage.htm

http://intranet.losangeles.af.mil/shared-folders/SMC.PKC.FOIA/

Freedom of Information Act (FOIA)

FOIA provides that any person has a right, enforceable in court, of access to federal agency records (open government -- no secrets), except to the extent that such records (or portions thereof) are protected from disclosure by one of nine exemptions.

(b)(1) - Classified
(b)(2) - Internal Rules and Practices
(b)(3) - Other Statutes
(b)(4) - Confidential Proprietary Information
(b)(5) - Inter/Intra Agency Records
(b)(6) - Invasion of Personal Privacy
(b)(7) - Investigative Records
(b)(8) - Financial Institutions
(b)(9) - Wells

REQUESTER

- A valid FOIA request consist of the Act being invoked, a reasonable description of the records being requested, and an established willingness to pay.
  - Commercial requesters pay search, review and duplication
  - Educational, Noncommercial Scientific, or News Media requesters pay for duplication excluding the first 100 pages
  - All Others pay search and duplication excluding the first 2 hours/100 pages

OPR RESPONSIBILITIES

- Locate responsive records
- Review and determine releasibility
  - No Record, Transfer, Release, Partial Denial, Denial
- Provide recommendation for each record
  - Sanitize records recommended for denial
- Coordinate response with Legal
- Meet suspense date established in tasking package

FOIA Time Requirements

5 U.S.C. 552 states:

"...each agency, upon any request for records..., shall make the records promptly available to any person.., shall determine releasability of the request within 20 workdays. . . "

20 workdays - formal response
30 calendar days - contractor response
10 workdays - authorized extension
10 workdays - JA coordination
70 days - Overdue

FOIA Time Requirements Cont

Authorized Extensions of Time--10 Additional working days (DoD 5400.7-R/Air Force Supplement, para 5.2.6, page 67):

1) All or part of the requested records are not at the installation processing the request

2) Fulfilling the request means collecting and reviewing an enormous number of records

3) Other Air Force activities or other agencies need to be involved in deciding whether to release the records

Space Cmd Requirements

- **Para C1.5.3.6.1, page 22: "SJA determines if coordination is required on "total releases" and initial "no record" responses." . . .**

- **Para C1.5.12, page 35: "OPR must provide a letter to the FOIA Manager agreeing to maintain records recommended for partial or total denial for the required retention period IAW AFMAN 37-139, Table 37-19."** (Rule 26)

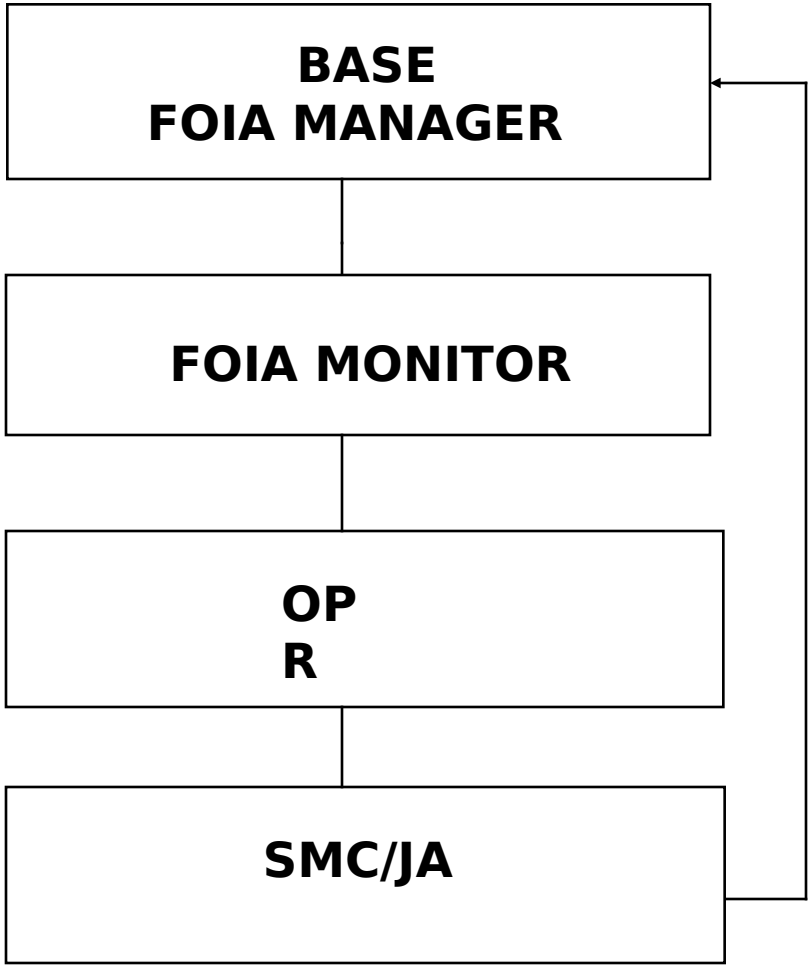
- **(http://www.usdoj.gov/oip/foiapost/2002foiapost13.htm): "Notify submitters in all cases when a FOIA request is received for unit price information"**

JA REQUIREMENT

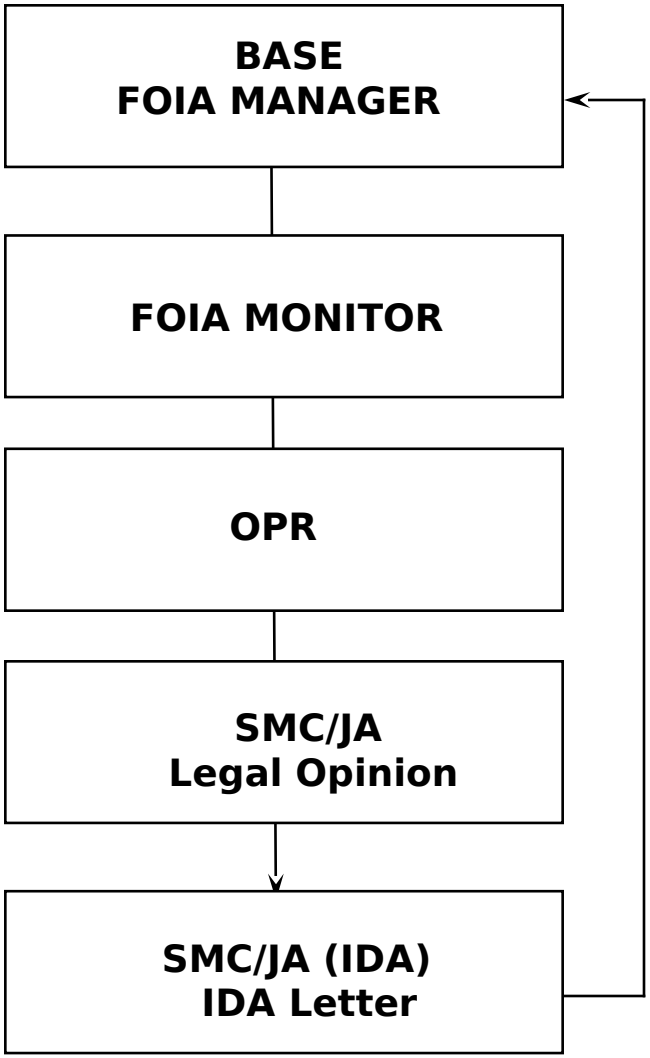
- The Initial Denial Authority (IDA), SJA, makes the final decision to release the documents over the objections of the submitter.
- Therefore, Col Scott Singer will now sign **ALL** letters to submitters notifying them of a release of documents over their objections (otherwise known as a 10-day letter).
- The SPOs may no longer sign the 10 day letter. The submitter then has 2 weeks to file in federal court to prevent the release of documents.

FOIA PROCESSING CHAIN

FULL RELEASES, CANCELLATIONS, REFERRALS & NO RECORDS

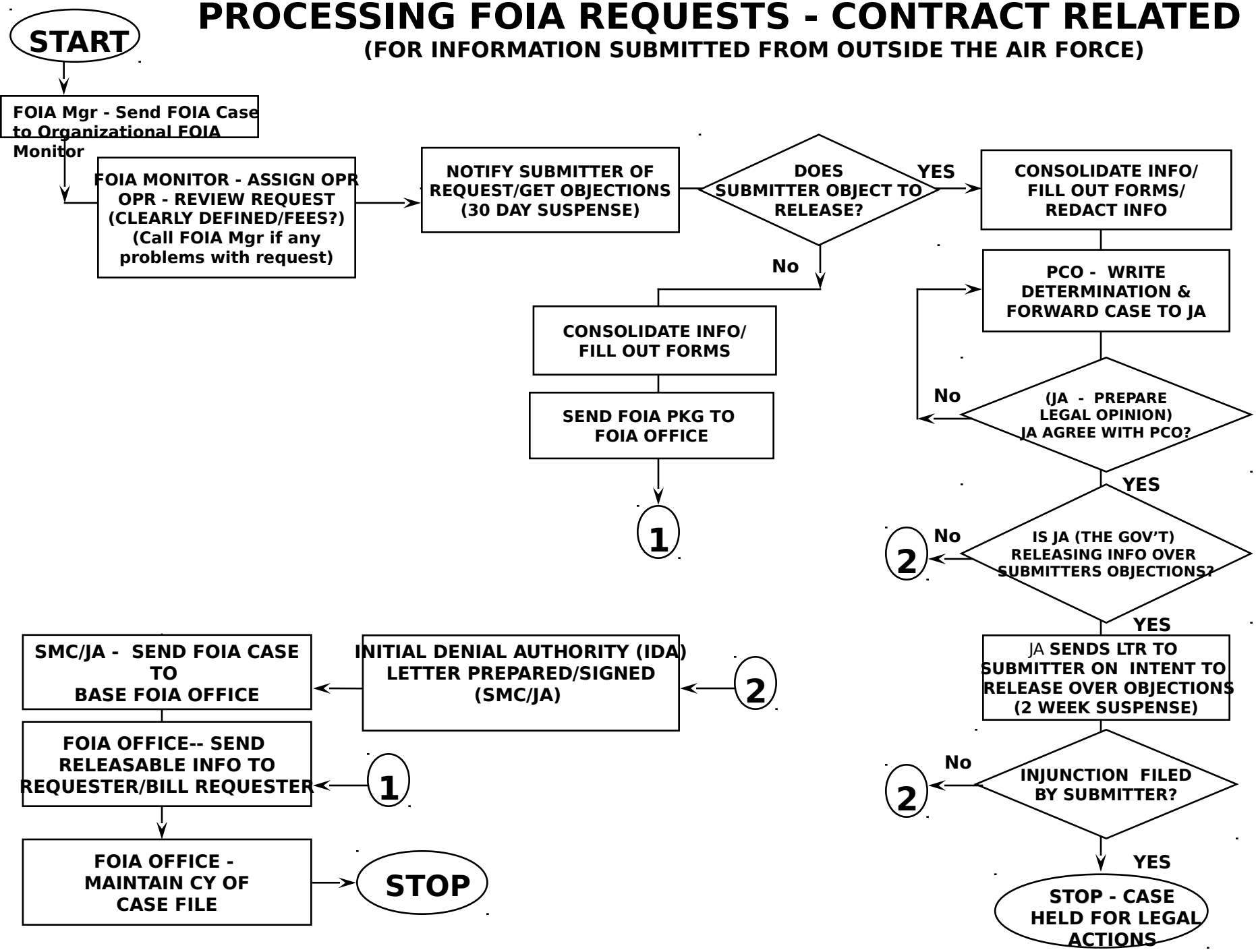


PARTIAL & FULL DENIALS



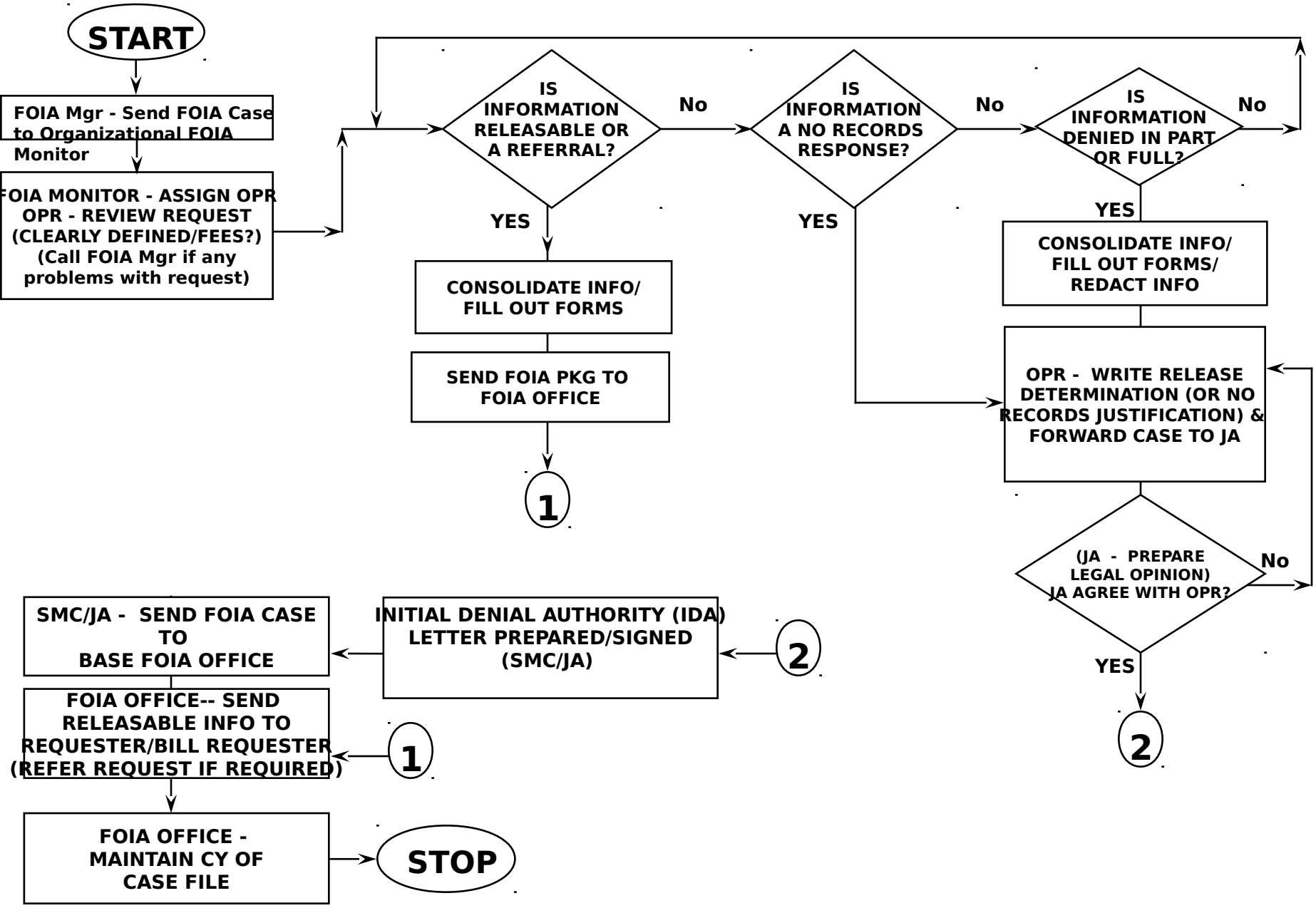
PROCESSING FOIA REQUESTS - CONTRACT RELATED

(FOR INFORMATION SUBMITTED FROM OUTSIDE THE AIR FORCE)


START
FOIA Mgr - Send FOIA Case to Organizational FOIA Monitor
FOIA MONITOR - ASSIGN OPR
OPR - REVIEW REQUEST (CLEARLY DEFINED/FEES?) (Call FOIA Mgr if any problems with request)
NOTIFY SUBMITTER OF REQUEST/GET OBJECTIONS (30 DAY SUSPENSE)
DOES SUBMITTER OBJECT TO RELEASE?
YES
No
CONSOLIDATE INFO/ FILL OUT FORMS/ REDACT INFO
PCO - WRITE DETERMINATION & FORWARD CASE TO JA
(JA - PREPARE LEGAL OPINION) JA AGREE WITH PCO?
No
YES
IS JA (THE GOV'T) RELEASING INFO OVER SUBMITTERS OBJECTIONS?
No
YES
2
JA SENDS LTR TO SUBMITTER ON INTENT TO RELEASE OVER OBJECTIONS (2 WEEK SUSPENSE)
INJUNCTION FILED BY SUBMITTER?
No
YES
2
STOP - CASE HELD FOR LEGAL ACTIONS
CONSOLIDATE INFO/ FILL OUT FORMS
SEND FOIA PKG TO FOIA OFFICE
1
INITIAL DENIAL AUTHORITY (IDA) LETTER PREPARED/SIGNED (SMC/JA)
2
SMC/JA - SEND FOIA CASE TO BASE FOIA OFFICE
FOIA OFFICE-- SEND RELEASABLE INFO TO REQUESTER/BILL REQUESTER
1
FOIA OFFICE - MAINTAIN CY OF CASE FILE
STOP

PROCESSING FOIA REQUESTS

(FOR GOV'T OWNED DOCUMENTS/RECORDS)


START
FOIA Mgr - Send FOIA Case to Organizational FOIA Monitor
FOIA MONITOR - ASSIGN OPR
OPR - REVIEW REQUEST (CLEARLY DEFINED/FEES?) (Call FOIA Mgr if any problems with request)
IS INFORMATION RELEASABLE OR A REFERRAL?
No
YES
IS INFORMATION A NO RECORDS RESPONSE?
No
YES
IS INFORMATION DENIED IN PART OR FULL?
No
YES
CONSOLIDATE INFO/ FILL OUT FORMS
SEND FOIA PKG TO FOIA OFFICE
1
CONSOLIDATE INFO/ FILL OUT FORMS/ REDACT INFO
OPR - WRITE RELEASE DETERMINATION (OR NO RECORDS JUSTIFICATION) & FORWARD CASE TO JA
(JA - PREPARE LEGAL OPINION) JA AGREE WITH OPR?
No
YES
2
INITIAL DENIAL AUTHORITY (IDA) LETTER PREPARED/SIGNED (SMC/JA)
2
SMC/JA - SEND FOIA CASE TO BASE FOIA OFFICE
FOIA OFFICE-- SEND RELEASABLE INFO TO REQUESTER/BILL REQUESTER (REFER REQUEST IF REQUIRED)
1
FOIA OFFICE - MAINTAIN CY OF CASE FILE
STOP

ANY QUESTIONS

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SMC Base FOIA/PA Manager

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